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ASSOCIATION FOR **MAXIMUM SERVICE TELEVISION, INC.**



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January 6, 1998

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The Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, NW, Room 222
Washington DC 20554

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JAN - 6 1998

Margita E. White
President

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: Advanced Television Systems
MM Docket No. 87-268

Dear Chairman Kennard:

The Association for Maximum Service Television, Inc. (MSTV) here submits its proposal for a de minimis interference standard to deal with two situations during the DTV transition: (1) minor DTV facility changes; and (2) UHF stations' request for power increases.

The June 13, 1997, Petition for Clarification and Partial Reconsideration submitted by the Broadcasters Caucus and numerous other broadcasters urged the FCC to establish a de minimis interference standard for minor facility changes. MSTV since has worked to help define such a processing standard, the need for which it understands also is recognized by the FCC staff.

MSTV also initiated conversations with Viacom in August on how a de minimis interference standard might be applied to existing UHF broadcasters seeking power increases in the DTV environment. (MSTV over a year earlier had taken the lead in forging an industry compromise on the UHF power issue that was noticed in Broadcasters' reply comments in January 1997.)

The need for a de minimis interference standard in both cases stems from the unavoidable fact that squeezing an additional 1600 DTV stations into spectrum already occupied by 1600 NTSC stations cannot be accomplished without significant interference and other imperfections — a situation made more difficult by the constraints against the use of Channels 60-69.

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The MSTV de minimis interference proposal is described in the attached MSTV Board Resolution.¹ It views both issues from the perspective of the victim station, *i.e.*, the station that would receive interference, and it defines how much new interference any station (NTSC or DTV) would suffer from both sources combined — UHF power increases and minor DTV facility changes.

This is similar to the concept of pollution rights that has been used in the environmental arena for at least a decade. The EPA mandates the maximum pollution that any one area will have to incur. This maximum is then allocated among the potential contributors to that pollution. The sum of the pollution caused by each source may not exceed the EPA-established overall cap.

Here, MSTV urges the FCC to set a cap for the interference any one station (DTV or NTSC) may suffer. In those limited cases where there is a conflict between UHF power increases and DTV facility changes, the FCC would determine, on a case-by-case basis, how to allocate the right to cause that interference. (The FCC would have to make an allocation of this sort even within these two categories, e.g., as between two or more conflicting UHF stations seeking power increases and as between two or more conflicting DTV stations seeking minor facility changes.)

The attached proposal goes beyond the December 17, 1997, UHF Broadcasters Ex Parte Submission which proposed to apply the de minimis interference standard only to UHF power increases. However, in further applying the de minimis standard to minor facility changes, the MSTV proposal seeks to make special accommodation to the UHF broadcaster position by: (1) increasing the cap for de minimis interference in areas of acute congestion where there is a conflict between power changes and facility increases (*i.e.*, where together they would exceed the interference cap; and (2) making clear that authorizing UHF power increases should not be delayed on account of speculative facility change.

The public and broadcasters both benefit from a quick DTV roll-out. However, the

¹ Two members of the MSTV Board have requested that the following language be included in this submission: "Viacom and Sullivan Broadcasting appreciate the efforts of MSTV to address the power disparity between UHF and VHF broadcast stations in the digital environment. Regrettably, however, we cannot endorse the language of this Resolution because it does not give first priority to power increases for DTV UHF to UHF stations relative to facility changes. Since the great majority and immediate impact of increased interference will be suffered by UHF analog stations rather than VHF analog stations, it is only reasonable and fair that UHF stations be granted power increases prior to granting facility changes."

The Honorable William E. Kennard

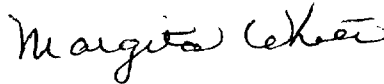
January 5, 1998

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Commission's rules as currently drafted could slow the introduction of DTV in some markets and reduce the effectiveness of DTV service. The rules are simply not flexible enough when it comes, for example, to stations that must move a tower five miles, stack a DTV antenna atop an NTSC antenna, or increase power to effectively serve their community of license. In the more congested parts of the country, these changes generally will create at least slightly more interference and therefore will disqualify stations for the expedited application process. The Commission's adoption of processing guidelines for applications that propose minor facility changes or power increases would help speed and rationalize the build-out process. A de minimis standard along the lines we propose would provide such guidelines and reduce the administrative burden of processing applications. At the same time, because the de minimis standard approaches the issue of increased interference from the point of view of the station that suffers the interference, it would limit the impact of changes on any one station.

Although the FCC could adopt this proposal independent of the issues raised in its December 2 Public Notice in this proceeding and could proceed separately with the issue of improvements to the DTV Table of Allotments/Assignments, MSTV believes it would be preferable to deal promptly with both sets of issues at the same time. For that reason, pursuant to the ex parte rules, two copies of this letter are submitted to secretary Salas for the docket file.

Respectfully submitted,



Margita E. White
President

Enclosure

CC: Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Harold Furchtgott-Roth
Commissioner Gloria Tristani
Secretary Magalie Salas (Docket 87-268 file) ✓

MSTV BOARD OF DIRECTORS RESOLUTION

January 2, 1998

MSTV should promptly urge the Federal Communications Commission to adopt a de minimis interference standard to apply only during the DTV transition period (thereafter the Commission should revert to a no-interference standard) that would allow DTV power increases up to 200 kW and minor facility changes consistent with the following conditions:

1. Stations (NTSC or DTV) that experience 15% or more population loss within their noise-limited (Grade B for NTSC) contour would not be subject to a de minimis interference standards; that is, the Commission's present no new interference standard would continue to apply to these stations;
2. Stations (NTSC or DTV) that experience less than 1% population loss within their noise-limited (Grade B for NTSC) contour could receive an aggregate amount of additional interference not to exceed 3% or the total population within their noise-limited contour; and
3. Stations (NTSC or DTV) that experience population loss equal to or greater than 1% but less than 15% within their noise-limited (Grade B for NTSC) contour could receive an aggregate amount of additional interference not to exceed 2% above what is currently allowed by the FCC table.

It is recognized that there may be conflicts between DTV stations seeking power increases and those seeking minor facility changes. MSTV urges the Commission to adopt a process for promptly resolving these conflicts which are not expected to be numerous or extensive in scope, on a case-by-case basis. If a conflict between a power increase and a minor facility changes is not apparent at the time (or within 30 days) of the request for increased power, MSTV urges that there be no delay in processing the request for increased power.

MSTV further urges the Commission, in case of a conflict, to allow up to an additional 1% interference to the stations suffering interference under conditions 1, 2, and 3 above, if these stations are in the acute problem areas (the Northeast, Great Lakes and California regions). This allowance will further accommodate both facility changes and power increases.